

REMARKS

Status of the Claims

By this Response, Applicants propose to amend claims 20, 25, 28, 30-32, 37, 40, 42-44, 49, 54, 55, 62, and 63. Support for the amended claims can be found throughout the specification and figures. Applicants respectfully submit that no new matter has been added. Claims 20-63 are currently under consideration.

In the Final Office Action (FOA) dated May 12, 2011, the Examiner rejected claims 20-24, 32-36, and 44-48 under 35 U.S.C. 102(e) as being unpatentable over Nietupski et al. (U.S. Publication No. 2002/0140545, hereinafter, “Nietupski”); rejected claims 25-31, 37-43, and 49-63 under 35 U.S.C. 103(a) as being unpatentable over Nietupski in view of Murphy (U.S. Patent No. 6,232,874); and rejected claims 62 and 63 under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Nietupski. Applicants respectfully traverse the rejections.

Rejection Under 35 U.S.C. § 102

The Examiner rejected claims 20-24, 32-36 and 44-48 under 35 U.S.C. 102(e) as being unpatentable over Nietupski. Applicants respectfully traverse the rejection because Nietupski fails to disclose each and every element of the claims.

Claim 20 recites an apparatus at a vehicle location for validating a vehicle operator to operate functions of a vehicle comprising, *inter alia*, a processor for “examining said reply message to determine one or more functions of the vehicle that the vehicle operator is validated to operate.” Claims 32 and 44 recite similar elements. Applicants respectfully submit that Nietupski fails to disclose at least this claim element.

Nietupski discloses a method and system for simplifying a vehicle interface to provide local connectivity to various vehicle systems (see Abstract). In particular, Nietupski discloses a remote telematics service that actuates in-vehicle sub-systems controlled by local wireless systems such as a remote keyless entry (RKE) (see paragraph [0025]). When a vehicle operator identifies his/herself to a response center 10, the response center 10 validates the vehicle operator and determines an appropriate message to communicate to the vehicle operator (see Id.). However, the remote telematics service of Nieupski is not comparable to the functionality of claims 20, 32, and 44.

In particular, in no way does Nietupski relate to a processor at the vehicle that examines a reply message to determine a function of the vehicle that the vehicle operator is validated to operate. Instead, when identifying him/herself, the vehicle operator of Nietupski also requests a desired service (see Id.). Upon receiving the request for the desired service, the response center 10 generates a message that commands the RKE to perform the desired service (see Id.). In other words, instead of components of the vehicle examining the message from the response center 10 to determine validated services, the vehicle operator has already specified the desired services. Therefore, neither the vehicle operator nor any components of the vehicle would need to examine the message from the response center 10 to determine validated services because the vehicle operator him/herself has already specified the services that he/she wants performed.

For at least these reasons, Nietupski fails to disclose “examining said reply message to determine one or more functions of the vehicle that the vehicle operator is validated to operate,” as recited in claims 20, 32, and 44. Accordingly, Nietupski fails to anticipate claims 20, 32, and 44. As such, the rejection of claims 20, 32, and 44 under 35 USC §102(e) is overcome and should be withdrawn. Further, claims 21-24, 33-36 and 45-48 depend from either claims 20, 32,

or 44. Therefore, the rejection of these claims should be withdrawn for at least the reasons mentioned above.

Rejection Under 35 U.S.C. § 103

The Examiner rejected claims 25-31, 37-43, and 49-63 under 35 U.S.C. 103(a) as being unpatentable over Nietupski in view of Murphy. Applicants respectfully traverse the rejection because the combination of Nietupski and Murphy fails to disclose or suggest each and every element of the claims. Further, the Examiner fails to provide an articulated reasoning with some rational underpinning to combine Murphy with Nietupski to produce the claimed invention.

Claims 25-31 recite an apparatus at a vehicle location for validating a vehicle operator to operate functions of a vehicle comprising, *inter alia*, a processor for “examining said reply message to determine one or more functions of the vehicle that the vehicle operator is validated to operate.” Claims 37-43 and 49-63 recite similar elements. As discussed herein, Nietupski fails to disclose or suggest at least this claim element. Murphy, either alone or in combination with Nietupski, fails to correct this deficiency.

Murphy discloses a system for restricting use of a vehicle by a selected vehicle operator to permitted time intervals and permitted vehicle travel corridors (see Abstract). In particular, Murphy discloses performing tests on biometric data of a vehicle driver, and taking control actions if the tests do not pass, such as disabling the vehicle, disabling selected functions of the vehicle, and other actions. However, in no way does Murphy relate to examining a reply message from a remote location, let alone examining a reply message to determine functions of the vehicle that the vehicle operator is validated to operate. As such, Murphy also fails to disclose or suggest at least “examining said reply message to determine one or more functions of the vehicle that the vehicle operator is validated to operate,” as recited in claims 25-31, 37-43,

and 49-53. Accordingly, the combination of Nietupski and Murphy fails to disclose or suggest each and every claim element of claims 25-31, 37-43, and 49-53.

Further, the Examiner fails to provide an articulated reasoning with some rational underpinning to combine Nietupski with Murphy to produce the claimed invention. Instead, the Examiner merely asserts that it would have been obvious to a person having ordinary skill in the art to combine Murphy with Nietupski because limiting vehicle functions to a user based on their identification provides for more efficient use of a vehicle (see FOA, page 10). However, the Examiner fails to account for the fact that neither Nietupski nor Murphy relates to examining a reply message from a remote location to determine functions of the vehicle that the vehicle operator is validated to operate. Therefore, the combination of Nietupski and Murphy fails to render claims 25-31, 37-43, and 49-53 obvious. As such, the rejection of claims 25-31, 37-43, and 49-53 under 35 USC §103(a) is improper and should be withdrawn.

Rejection Under 35 U.S.C. § 102 and 35 U.S.C. § 103

The Examiner rejected claims 62 and 63 under 35 U.S.C. 102(b) as anticipated by Nietupski or, in the alternative, under 35 U.S.C. 103(a), as obvious over Nietupski. Applicants respectfully traverse the rejection because Nietupski fails to disclose or suggest each and every element of the claims.

Claim 62 recites an apparatus for validating, at a remote location, a vehicle operator to operate functions of a vehicle comprising, *inter alia*, a processor configured to “determine, based on the identification information, one or more functions of the vehicle that the vehicle operator is validated to operate.” Claim 63 recites similar elements. Applicants respectfully submit that Nietupski fails to disclose or suggest at least these claim elements.

As discussed herein, Nietupski merely discloses a response center 10 that, upon receiving the request for the desired service from the vehicle operator, generates a message that commands the RKE to perform the desired service (see Id.). As such, the response center 10 does not determine the desired service because the vehicle operator provides an indication of the desired service. In addition, the response center 10 does not determine the desired service based on identification information of the vehicle operator.

For at least these reasons, Nietupski fails to disclose or suggest a processor configured to “determine, based on the identification information, one or more functions of the vehicle that the vehicle operator is validated to operate,” as recited in claims 62 and 63. Accordingly, Nietupski fails to anticipate or render obvious claims 62 and 63. As such, the rejection of claims 62 and 63 under 35 USC §102(b) and 35 USC §103(a) is overcome and should be withdrawn.

CONCLUSION

In light of the amendments contained herein, Applicants submit that the application is in condition for allowance, for which early action is requested.

Please charge any fees or overpayments that may be due with this response to Deposit Account No. 17-0026.

Respectfully submitted,

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